

## § 970.19

## 24 CFR Ch. IX (4–1–15 Edition)

(1) The non-dwelling facilities or land exceeds the needs of the development (after DOFA); or

(2) The disposition of the property is incidental to, or does not interfere with, continued operation of the remaining portion of the development.

### § 970.19 Disposition of property; use of proceeds.

(a) Where HUD approves the disposition of real property of a development, in whole or in part, the PHA shall dispose of the property promptly for not less than fair market value (in which case there is no showing of commensurate public benefit required), unless HUD authorizes negotiated sale for reasons found to be in the best interests of the PHA or the federal government; or dispose of the property for sale for less than fair market value (where permitted by state law), based on commensurate public benefits to the community, the PHA, or the federal government justifying such an exception. General public improvements, such as streets and bridges, do not qualify as commensurate public benefits.

(b) A PHA may pay the reasonable costs of disposition, and of relocation of displaced tenants allowable under § 970.21, out of the gross proceeds, as approved by HUD.

(c) To obtain an estimate of the fair market value before the property is advertised for bid, the PHA shall have one independent appraisal performed on the property proposed for disposition, unless HUD determines that:

(1) More than one appraisal is warranted; or

(2) Another method of valuation is clearly sufficient and the expense of an independent appraisal is unjustified because of the limited nature of the property interest involved or other available data.

(d) To obtain an estimate of the fair market value when a property is not publicly advertised for bid, HUD may accept a reasonable valuation of the property.

(e) A PHA shall use net proceeds, including any interest earned on the proceeds (after payment of HUD-approved costs of disposition and relocation under paragraph (a) of this section), subject to HUD approval, as follows:

(1) Unless waived by HUD, for the retirement of outstanding obligations, if any, issued to finance original development or modernization of the project; and

(2) To the extent that any net proceeds remain, after the application of proceeds in accordance with paragraph (e)(1) of this section, for:

(i) The provision of low-income housing or to benefit the residents of the PHA, through such measures as modernization of lower-income housing or the acquisition, development, or rehabilitation of other properties to operate as lower-income housing; or

(ii) Leveraging amounts for securing commercial enterprises, on-site in public housing developments of the PHA, appropriate to serve the needs of the residents.

(f) For dispositions for the purpose stated in § 970.17(b), a PHA must demonstrate to the satisfaction of HUD that the replacement units are being provided in connection with the disposition of the property. A PHA may use sale proceeds in accordance with paragraph (e) to fund the replacement units.

### § 970.21 Relocation of residents.

(a) *Relocation of residents on a non-discriminatory basis and relocation resources.* A PHA must offer each family displaced by demolition or disposition comparable housing that meets housing quality standards (HQS) and is located in an area that is generally not less desirable than the location of the displaced persons. The housing must be offered on a nondiscriminatory basis, without regard to race, color, religion, creed, national origin, handicap, age, familial status, or gender, in compliance with applicable Federal and state laws. For persons with disabilities displaced from a unit with reasonable accommodations, comparable housing should include similar accommodations. Such housing may include:

(1) Tenant-based assistance, such as assistance under the Housing Choice Voucher Program, 24 CFR part 982, except that such assistance will not be considered “comparable housing” until the family is actually relocated into such housing;

(2) Project-based assistance; or

(3) Occupancy in a unit operated or assisted by the PHA at a rental rate paid by the family that is comparable to the rental rate applicable to the unit from which the family is vacated.

(b) *In-place tenants.* A PHA may not complete disposition of a building until all tenants residing in the building are relocated.

(c) *Financial resources.* (1) Sources of funding for relocation costs related to demolition or disposition may include, but are not limited to, capital funds or other federal funds currently available for this purpose;

(2) If Federal financial assistance under the Community Development Block Grant (CDBG) program, 42 U.S.C. 5301 *et seq.* (including loan guarantees under section 108 of the Housing and Community Development Act of 1974, 42 U.S.C. 5308 *et seq.*); the Urban Development Action Grant (UDAG) program, 42 U.S.C. 5318 *et seq.*; or HOME program, 42 U.S.C. 12701 *et seq.* is used in connection with the demolition or disposition of public housing, the project is subject to section 104(d) of the Housing and Community Development Act of 1974, 42 U.S.C. 5304(d) (as amended)), including the relocation payment provisions and the anti-displacement provisions, which require that comparable replacement dwellings be provided within the community for the same number of occupants as could have been housed in the occupied and vacant, occupiable low- and moderate-income units demolished or converted to another use.

(d) *Relocation timetable.* For the purpose of determining operating subsidy eligibility under 24 CFR part 990, a PHA must provide the following information in the application or immediately following application submission:

(1) The number of occupied units at the time of demolition/disposition application approval;

(2) A schedule for the relocation of those residents on a month-by-month basis.

(e) The PHA is responsible for the following:

(1) Notifying each family residing in the development of the proposed demolition or disposition 90 days prior to the displacement date, except in cases of imminent threat to health and safe-

ty. The notification must include a statement that:

(i) The development or portion of the development will be demolished or disposed of;

(ii) The demolition of the building in which the family resides will not commence until each resident of the building has been relocated;

(iii) Each family displaced by such action will be provided comparable housing, which may include housing with reasonable accommodations for disability, if required under section 504 of the Rehabilitation Act of 1973 and HUD's regulations in 24 CFR part 8, as described in paragraph (a) of this section;

(2) Providing for the payment of the actual and reasonable relocation expenses of each resident to be displaced, including residents requiring reasonable accommodations because of disabilities;

(3) Ensuring that each displaced resident is offered comparable replacement housing as described in paragraph (b) of this section; and

(4) Providing any necessary counseling for residents that are displaced.

(f) In addition, the PHA's plan for the relocation of residents who would be displaced by the proposed demolition or disposition must indicate:

(1) The number of individual residents to be displaced;

(2) The type of counseling and advisory services the PHA plans to provide;

(3) What housing resources are expected to be available to provide housing for displaced residents; and

(4) An estimate of the costs for counseling and advisory services and resident moving expenses, and the expected source for payment of these costs.

(g) The Uniform Relocation Act does not apply to demolitions and dispositions under this part.

#### **§ 970.23 Costs of demolition and relocation of displaced tenants.**

Where HUD has approved demolition of a project, or a portion of a project, and the proposed action is part of a program under the Capital Fund Program (24 CFR part 905), the costs of demolition and of relocation of displaced residents may be included in the